

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

**Honorable Ronald H. Sargis**

Bankruptcy Judge  
Modesto, California

**January 16, 2014 at 2:30 p.m.**

1. [13-91409-E-7](#) **SERGIO NOLASCO**  
[13-9037](#)  
**RODRIGUEZ V. NOLASCO**

**STATUS CONFERENCE RE: COMPLAINT**  
**11-4-13 [[1](#)]**

Plaintiff's Atty: Robert D. Rodriguez  
Defendant's Atty: unknown

Adv. Filed: 11/4/13  
Reissued Summons: 12/30/13

Answer: none

Nature of Action:  
Objection/revocation of discharge  
Dischargeability - domestic support  
Dischargeability - divorce or separation obligation (other than domestic support)

Notes:

Jury demand made by Plaintiff in Complaint [Dckt 1]

**SUMMARY OF COMPLAINT**

The Complaint seeks a determination that the debt of \$9,348.00 asserted to be owed by the named Defendant-Debtor, Sergio Nolasco, is nondischargeable pursuant to 11 U.S.C. § 523(a)(5) [domestic support obligation] and § 523(a)(15) [debt to spouse/former spouse/child incurred in course of a divorce or separation in connection with a separation agreement, divorce decree, or other court of record]. Further, that the Defendant-Debtor should be denied his discharge pursuant to 11 U.S.C. § 727(a)(4) for making false statements in his bankruptcy schedules.

Plaintiffs are the attorneys for the Defendant-Debtor's wife in the state court family law proceedings. In those proceedings Plaintiffs obtained an order for \$1,043.00 monthly spousal support and an award of \$11,473.00 for arrearage spousal support payments. Though Plaintiffs requested an award of \$9,348.00 in attorneys' fees, but no award was made prior to the commencement of this bankruptcy case.

The First Cause of Actions to seek to have the \$9,348.00 in attorneys' fees to be determined non-dischargeable pursuant to 11 U.S.C. § 523(a)(5).

**January 16, 2014 at 2:30 p.m.**

(The state court has the discretion to order that an award of attorneys' fees be made directly to the attorney, but must order such. CALIFORNIA FAMILY LAW PRACTICE AND PROCEDURE 2<sup>ND</sup> EDITION, MATTHEW BENDER & COMPANY, § 62.06.)

The Second Cause of Action asserts that the asserted \$9,348.00 in attorneys' fees should be non-dischargeable pursuant to 11 U.S.C. § 523(a)(15).

The Third Cause of Action seeks to have the Defendant-Debtor's discharge denied pursuant to 11 U.S.C. § 727(a)(4)(A). It is alleged the income and expenses listed by the Defendant-Debtor on the Original Schedules I and J, and Amended Schedule J are false. It is alleged that the Defendant-Debtor provided conflicting testimony in the state court dissolution proceedings and that the state court has found the Defendant-Debtor's income and expenses to be different than as stated on Schedules I and J.

#### **SUMMARY OF ANSWER**

None Filed.

#### **REISSUANCE OF SUBPOENA**

On December 30, 2013 the Clerk of the court reissued the subpoena in this Adversary Proceeding. No Certificate of Service has been filed.

2. [13-91675-E-7](#) SHAWN/CORINNE MOOY  
[13-9038](#)  
MOOY ET AL V. U. S. DEPARTMENT  
OF EDUCATION

STATUS CONFERENCE RE: COMPLAINT  
11-18-13 [[1](#)]

Plaintiff's Atty: Pro Se  
Defendant's Atty: unknown

Adv. Filed: 11/18/13  
Answer: none

Nature of Action:  
Dischargeability - student loan

Notes:

#### **SUMMARY OF COMPLAINT**

The complaint alleges that \$51,681.06 in student loan obligations should be discharged pursuant to 11 U.S.C. § 523(a)(8). It is alleged that due to health conditions, Plaintiff-Debtor Shawn Mooy has been unable to complete his education and limits his earning ability.

#### **SUMMARY OF ANSWER**

None Filed

#### **FINAL BANKRUPTCY COURT JUDGMENT**

The Complaint alleges that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157, and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(I). Complaint ¶¶ 1.3, 1.5, Dckt. 1.

#### **REISSUANCE OF SUMMONS**

On November 20, 2013, the Clerk of the Court reissued the Summons in this Adversary Proceeding. The Certificate of Service states that the Reissued Summons and Complaint were served on the "U.S. Department of Education Bankruptcy Section" at an address in San Francisco.

#### **SERVICE OF PLEADINGS ON THE UNITED STATES OF AMERICA**

The Federal Rule of Bankruptcy Procedure and Local Bankruptcy Rules address proper service on the United States of America for contested matters and in adversary proceedings, and for notice to be provided in general.

#### **FEDERAL RULES OF CIVIL PROCEDURE**

Rule 7004. Process; Service of Summons, Complaint [emphasis added]

(a) Summons; service; proof of service.

(1) Except as provided in Rule 7004(a)(2), Rule 4(a), (b), (c)(1), (d)(1), (e)-(j), (l), and (m) F. R. Civ. P. applies in adversary proceedings. Personal service under Rule 4(e)-(j) F. R. Civ. P. may be made by any person at least 18 years of age who is not a party, and the summons may be delivered by the clerk to any such person.

(b) Service by first class mail. Except as provided in subdivision (h), in addition to the methods of service authorized by Rule 4(e)-(j) F.R.Civ.P., service may be made within the United States by first class mail postage prepaid as follows:

...

(4) Upon the United States, by mailing a copy of the summons and complaint **addressed to the civil process clerk at the office of the United States attorney for the district in which the action is brought and by mailing a copy of the summons and complaint to the Attorney General of the United States at Washington, District of Columbia**, and in any action attacking the validity of an order of an officer or an agency of the United States not made a party, by also mailing a copy of the summons and complaint to that officer or agency. The court shall allow a reasonable time for service pursuant to this subdivision for the purpose of curing the failure to mail a copy of the summons and complaint to multiple officers, agencies, or corporations of the United States if the plaintiff has mailed a copy of the summons and complaint either to the civil process clerk at the office of the United States attorney or to the Attorney General of the United States.

(5) Upon any officer or agency of the United States, by mailing a copy of the summons and complaint to the United States as prescribed in paragraph (4) of this subdivision and also to the officer or agency. If the agency is a corporation, the mailing shall be as prescribed in paragraph (3) of this subdivision of this rule. The court shall allow a reasonable time for service pursuant to this subdivision for the purpose of curing the failure to mail a copy of the summons and complaint to multiple officers, agencies, or corporations of the United States if the plaintiff has mailed a copy of the summons and complaint either to the civil process clerk at the office of the United States attorney or to the Attorney General of the United States. If the United States trustee is the trustee in the case and service is made upon the United States trustee solely as trustee, service may be made as prescribed in paragraph (10) of this subdivision of this rule.

## LOCAL BANKRUPTCY RULES

### Local Bankruptcy Rule 2002-1: Notice Requirements

(a) Listing the United States as a Creditor; Notice to the United States.

When listing a debt to the United States for other than taxes the debtor shall separately list both the U.S. Attorney and the federal agency through which the debtor became indebted, as required by Fed. R. Bankr. P. 2002(j)(4). The address listed for the U.S. Attorney shall include, in parentheses, the name of the federal agency as follows:

- (1) For Cases assigned to the Sacramento Division:

United States Attorney  
(For [insert name of agency])  
501 I Street, Suite 10-100  
Sacramento, CA 95814

- (2) For Cases assigned to the Modesto and Fresno Divisions:

United States Attorney  
(For [insert name of agency])  
2500 Tulare Street, Suite 4401  
Fresno, CA 93721

For example, the address listed for the U.S. Attorney for a debt owed to the Department of Education for a case assigned to the Modesto Division would be as follows:

United States Attorney  
(For Department of Education)  
2500 Tulare Street, Suite 4401  
Fresno, CA 93721

(b) Notice to Other Governmental Agencies. Certain federal and state agencies specify particular addresses to which notice of bankruptcy proceedings shall be directed. The roster of such agencies and their addresses (Form EDC 2-785, Roster of Governmental Agencies) shall be available on the Court's website ([www.caeb.uscourts.gov](http://www.caeb.uscourts.gov)) to enable compliance with this Rule and the provisions of Fed. R. Bankr. P. 2002(j). The Clerk shall make paper copies of the roster available upon request. When listing a debt to an agency included on this roster, the debtor and the debtor's attorney shall complete the Master Address List and the schedule of creditors using the address as shown on the agency roster. When listing a debt to an agency not on the roster, the debtor and the debtor's attorney shall use such address as will effect proper notice to the agency.

(c) Notice to the Internal Revenue Service. In addition to addresses specified on the Roster of Governmental Agencies maintained by the Clerk, notices in adversary proceedings and contested matters relating to the Internal Revenue Service shall be sent to all of the following addresses:

(1) United States Department of Justice  
Civil Trial Section, Western Region

Box 683, Ben Franklin Station  
Washington, D.C. 20044;

(2) United States Attorney as specified in LBR 2002-1(a) above; and

(3) Internal Revenue Service at the addresses specified on the  
Roster of Governmental Agencies maintained by the Clerk.

3. [10-90583](#)-E-7 JESSE/DEANNA RUELAS  
[13-9009](#)  
RUELAS V. GREENHILLS MASTER  
ASSOCIATION ET AL

CONTINUED STATUS CONFERENCE RE:  
COMPLAINT  
3-8-13 [[1](#)]

Plaintiff's Atty: Cort V. Wiegand  
Defendant's Atty: Steven R. Hrdlicka

Adv. Filed: 3/8/13  
Answer: 4/15/13

Nature of Action:  
Dischargeability - other  
Injunctive relief - other

Notes:

Continued from 11/21/13. The parties are to complete and file the  
settlement agreement and lodge with the court an order further continuing  
the Status Conference to May 22, 2014.

Order not lodged with the court as of 1/10/14.